

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

-----X

BOUNTY FRESH, LLC,

Plaintiff,

-against-

J NY PRODUCE, INC., and CHANG Y. JOON,

Defendants.

-----X

MEMORANDUM AND
AMENDED ORDER

No. 12-CV-2415 (FB) (JO)

Appearances:

For the Plaintiff:

JONATHAN SCOTT BODNER, ESQ.
Ruskin Moscou Faltichuk, P.C.
1425 RXR Plaza, East Tower, 15th Floor
Uniondale, NY 11556

R. JASON READ, ESQ.
Rynn & Janowsky, LLP
4100 Newport Place Dr., Suite 700
Newport Beach, CA 92660-2451

BLOCK, Senior District Judge:

On July 17, 2013, Magistrate Judge James Orenstein issued a Report and Recommendation ("R&R") recommending that plaintiff's motion for default judgment be granted and that judgment be entered against both defendants jointly and severally in the amount of \$66,927.16.

The R&R states that "[a]ny objections to this Report and Recommendation must be filed no later than August 2, 2013. Failure to file objections within this period designating the particular issues to be reviewed waives the right to appeal the district court's order." R&R at 12. A copy of the R&R was served on defendants at their last

known address on July 18, 2013. To date, no objections have been filed.

Where, as here, clear notice has been given of the consequences of failure to object, and there are no objections, the Court may adopt the R & R without *de novo* review. See *Thomas v. Arn*, 474 U.S. 140, 149-50 (1985); *Mario v. P & C Food Mkts., Inc.*, 313 F.3d 758, 766 (2d Cir. 2002) (“Where parties receive clear notice of the consequences, failure timely to object to a magistrate’s report and recommendation operates as a waiver of further judicial review of the magistrate’s decision.”). The Court will excuse the failure to object and conduct *de novo* review if it appears that the magistrate judge may have committed plain error. See *Spence v. Superintendent, Great Meadow Corr. Facility*, 219 F.3d 162, 174 (2d Cir. 2000).

As no error appears on the face of Magistrate Judge Orenstein’s R&R, the Court adopts it without *de novo* review. However, the Court updates Magistrate Judge Orenstein’s calculation of prejudgment interest from \$11,557.16 to \$16,818.64 as of March 14, 2014. Accordingly, the Court directs the Clerk to enter judgment against defendants, J NY Produce, Inc., and Chang Y. Joon, on March 14, 2014, in favor of plaintiff in the amount of \$72,188.64. Post-judgment interest shall accrue at the statutory rate. See 28 U.S.C. 1961.

SO ORDERED.

/S/ Frederic Block
FREDERIC BLOCK
Senior United States District Judge

Brooklyn, New York

March 14, 2014